

REMARKS

Claims 29-55 are presented for examination, of which Claims 29, 36, 40, 47 and 51-53 are in independent form. Claims 29, 36, 40, 47 and 51-53 have been amended to provide Applicant with a more complete scope of protection. Favorable reconsideration is respectfully requested.

In the outstanding Office Action, Claims 29-31, 33-35, 40-42, 44-46, 51, 53 and 55 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,359,628 (*Buytaert*). Claims 32, 43 and 54 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Buytaert* in view of U.S. Patent 6,522,354 (*Kawamura*). Claims 36-39, 47-50 and 52 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Buytaert* in view of U.S. Patent 6,282,513 (*Strawder*), and in further view of *Kawamura*.

As shown above, Applicant has amended independent Claims 29, 36, 40, 47 and 51-53 in terms that more clearly define what he regards as his invention. Applicant submits that these amended independent claims, together with the remaining claims dependent thereon, are patentably distinct from the cited prior art for at least the following reasons.

Independent Claim 29 is directed to an image processing apparatus including:

(1) receiving means for receiving ordering information; (2) image taking means for taking an image based on an image taking condition corresponding to the ordering information received by the receiving means; (3) storing means for storing the image taken by the image taking means and the image taking condition; and (4) display control means for controlling display of the image taken by the image taking means. The apparatus also includes (5) selection means for selecting an image as an object for re-taking from among the already-taken images displayed by

the display control means; (6) re-taking instruction means for instructing the image taking means to re-take the image corresponding to the image selected by the selection means; (7) reading means for reading out the image taking condition corresponding to the image selected by the selection means; (8) setting means for setting the image taking condition read-out by the reading means to the image taking means; (9) re-taking control means for controlling the image taking means to re-take the selected image based on the image taking condition set by the setting means; and (10) output means for outputting the re-taking image as the image corresponding to the ordering information.

Among other notable features of Claim 29 are (1) reading means for reading out the image taking condition corresponding to the image selected by the selection means; (2) setting means for setting the image taking condition read-out by the reading means to the image taking means; (3) re-taking control means for controlling the image taking means to re-take the selected image based on the image taking condition set by the setting means; and (4) output means for outputting the re-taking image as the image corresponding to the ordering information.

Buytaert relates to a system for identifying a radiographic image that has been stored in a photostimulable phosphor screen and for displaying a preview image of that image on a personal computer. The system includes a combined identification/preview station 1, a read-out station 2, a processing station 6 and a laser recorder 3. An image stored in the photostimulable phosphor screen is read out in the read-out station 2, digitized and subjected to image processing in processing station 6. The read-out and processed image is sent the laser recorder 3. The identification station 1 includes a identification screen into which patient identification data and image identifying data, such as department, view position and cassette

orientation, can be entered.

The Office Action appears to equate the image taking condition of Claim 29 with the view position data. Even assuming (although Applicant does not concede) the view position data is equivalent to the image taking condition, Applicant has found nothing in *Buytaert* that would teach or suggest (1) reading means for reading out the image taking condition corresponding to the image selected by the selection means; (2) setting means for setting the image taking condition read-out by the reading means to the image taking means; (3) re-taking control means for controlling the image taking means to re-take the selected image based on the image taking condition set by the setting means; or (4) output means for outputting the re-taking image as the image corresponding to the ordering information, as recited in claim 29.

Independent Claims 40 and 51 are method and storage medium claims respectively corresponding to apparatus Claim 29, and are believed to be patentable over *Buytaert* for at least the same reasons as discussed above in connection with Claim 29. Additionally, independent Claim 53 includes features substantially similar to those of Claim 29, and is believed to be patentable over *Buytaert*, for reasons substantially the same as those discussed above in connection with Claim 29.

Independent Claim 36 is directed to an image processing apparatus including: (1) image taking means for taking an image; (2) storage means for storing the image taken by the image taking means associated with an image taking ID, the storage means being able to store plural images wherein the plural images are able to be associated with a single image taking ID; (3) marking means for attaching a mark to one or more images from among the plural images

associated with a single image taking ID, the one or more images being images other than the image newly stored by the storage means; and (4) image output means for outputting the image to which the mark is not attached by the marking means as the image corresponding to the single image taking ID.

Among other notable features of the apparatus of Claim 36, therefore, are (1) marking means for attaching a mark to one or more images from among the plural images associated with a single image taking ID, the one or more images being images other than the image newly stored by the storage means and (2) the image output means for outputting the image to which the mark is not attached by the marking means as the image corresponding to the single image taking ID.

Initially, Applicant notes that the recitations of Claim 36 are not all met by *Buytaert*, and since the outstanding rejection of this claim is based on a combination of references, it is understood that the Examiner agrees with Applicant on this point. The Office Action cites *Strawder* as supplying the required teaching of associating plural images with a single image taking ID. The Office Action concedes (pages 14-15) that the combination of *Strawder* and *Buytaert* fails to teach attaching an identification mark for the image not selected by an output image selection means. However, the Office Action states that *Kawamura* teaches displaying an identification mark for the images not selected by the output image selection means.

Assuming (although Applicant does not concede) that the proposed combination of *Strawder*, *Buytaert* and *Kawamura* would be a permissible one, however, the result of such a combination would still not teach or suggest means for marking one or more

images from among the plural images associated with a single image taking ID, the one or more images being images other than the image newly stored by the storage means, as recited in Claim 36 (emphasis added). In the *Kawamura* apparatus, a number of thumbnail images are displayed together on an LCD (see Fig. 6), each thumbnail being displayed with a numeral from 1 to 6 in one corner of the thumbnail. The user decides which of the images are to be transferred from the apparatus (a digital camera) to a personal computer, and designates those which he or she wishes to transfer. The thumbnail corresponding to each of the images so designated is now displayed with a telephone icon 51 near the thumbnail. The user can then transfer the designated images to the PC. As the transfer progresses, a PC icon 52 appears by the thumbnail of each designated image as the image is successfully transferred. If for any reason the transfer is interrupted before all the designated images have successfully been transferred, then the transfer operation is terminated, and a warning, such as “Finished Due to Error” (see Fig. 8) is shown on the LCD along with the thumbnails. At this point, the designated thumbnails are still accompanied by the telephone icons 51, and those whose images were successfully transferred, by the PC icons 52. All six thumbnails still are shown with their respective numerals 1 - 6. However, nothing has been found in *Kawamura* that would teach or suggest the above-mentioned means for marking recited in Claim 36.

Further, nothing has been found in the cited references that would teach or suggest “image output means for outputting the image to which the mark is not attached by said marking means as the image corresponding to the single image taking ID,” as recited in Claim 36. For at least these reasons, therefore, it is believed to be clear that Claim 36 is allowable over any permissible combination (if there is any) of *Strawder*, *Buytaert* and *Kawamura*.

Independent Claims 47 and 52 are method and storage medium claims respectively corresponding to apparatus Claim 36, and are believed to be patentable over the cited prior art for at least the same reasons as discussed above in connection with Claim 36.

A review of the other art of record has failed to reveal anything which, in Applicant's opinion, would remedy the deficiencies of the art discussed above, as references against the independent claims herein. Those claims are therefore believed patentable over the art of record.

The other claims in this application are each dependent from one or another of the independent claims discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,



Jennifer A. Reda
Attorney for Applicant
Registration No.: 57,840

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200